

**Before the  
ACS Forbearance.v.1.doc Washington, D.C. 20544**

In the Matter of	)	
	)	
Petition of ACS of Anchorage, Inc.	)	
Pursuant to Section 10 of the	)	
Communications Act of 1934, as	)	WC Docket No. 05-281
amended, for Forbearance from	)	
Sections 251(c)(3) and 252(d)(1) in the	)	
Anchorage LEC Study Area	)	
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**COMMENTS OF THE ALASKA TELEPHONE ASSOCIATION**

In accordance with the Federal Communication Commission's ("FCC" or "Commission") Public Notice dated October 14, 2005, the Alaska Telephone Association (collectively "ATA")<sup>1</sup> files these comments in support of ACS's Petition for Forbearance from Sections 251(c)(3) and 252(d)(1) in the Anchorage LEC study area.

Support for ACS's Petition

ACS seeks forbearance from these sections for the only non-rural service area in the State of Alaska. Judged by the percentage of customers lost by an incumbent local exchange carrier ("ILEC"), Anchorage is surely the most competitive

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<sup>1</sup>The Alaska Telephone Association is a trade association comprised of rural Alaska local exchange telephone companies. Its active members are Alaska Telephone Company; Arctic Slope Telephone Association Cooperative, Inc.; Bristol Bay Telephone Cooperative, Inc.; Bush-Tell, Inc.; Copper Valley Telephone Cooperative, Inc.; Cordova Telephone Cooperative; KPU Telecommunications; Matanuska Telephone Association; Nushagak Electric & Telephone Cooperative, Inc.; OTZ Telephone Cooperative; Summit Telephone Company, Inc., TelAlaska, Inc.; United Utilities, Inc.; and Yukon Telephone Company, Inc.

community in the nation. Its main competitor for local exchange customers, GCI, has a larger share of the market than does ACS. When an ILEC has only a minority of the local exchange customers in a service area, clearly customers have a choice and competition is vibrant.

GCI is virtually the statewide monopoly cable provider, passing by 90 percent of the homes with cable television service and GCI has announced its intention of transitioning its customers to cable telephony and expanding its local exchange footprint to rural areas using this technology. Lack of access to customers over its own facilities is not the reason GCI covets the opportunities offered by TELRIC priced, unbundled network elements (“UNEs”). It is purely an economic issue. GCI faces a choice between purchasing UNEs at TELRIC prices and risking its own investment capital in its cable telephony platform. When the cost of TELRIC priced UNEs compares so favorably with the cost of investing its own capital, there is no incentive for the CLEC to serve customers over its own facilities. Why assume risk and tie up capital without an increase in profit?

At the same time, the ILEC has little incentive to invest in infrastructure upgrades since its competitor is taking advantage of the same upgrades without assuming any of the risk. A national policy of telecommunications competition that is supposed to bring benefits to customers is frustrated because there is no incentive to invest in alternative networks. The perpetual availability of low priced, TELRIC-based UNEs limits customer choice to service providers both using a single network with its inherent technological limitations. GCI’s decision to serve customers

through UNEs is not due to a lack of its own facilities, but because it can make more profit by that method. The appropriate time for regulatory parity in the Anchorage telecommunications market is well past. Customers in Anchorage deserve real choice. As the Commission said in the Qwest Forbearance Order,

Once...competitive carriers have constructed their own last mile facilities and their own transport facilities, we believe that it is in the public interest to place intermodal competitors on an equal regulatory footing by ending unequal regulation of services provided over different technological platforms.<sup>2</sup>

ACS's main competitor has, by its own admission, last mile facilities and transport facilities throughout the Anchorage market. Granting ACS's petition would certainly be a significant, although belated, step in that direction of introducing equal regulatory footing to this market.

### Rural Alaska

As the only non-rural service area in Alaska, we in no way intend for the justification for granting this Petition to be a model for the rest of the State. GCI has filed with the Regulatory Commission of Alaska to enter a number of rural communities to compete with the small ILECs.<sup>3</sup> GCI is the largest communications provider in Alaska. Besides its domination of the statewide cable market, GCI owns the vast majority of the undersea fiber optic cable connecting Alaska to the Lower

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<sup>2</sup> *Petition of Qwest Corporation for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Omaha Metropolitan Statistical Area*, WC Docket No. 04-223, FCC 05-170, released December 2, 2005 (hereinafter, "*Qwest*"), para. 78.

<sup>3</sup> *Application by GCI Communications Corp. For an Amendment to its Certificate of Public Convenience and Necessity to Operate as a Competitive Local Exchange Telecommunications Carrier*, RCA Docket No. U-05-004 (filed Jan. 21, 2005).

48. It has half the long distance market and is the largest Internet provider. GCI has more employees than all of the ATA companies combined.

With the advent of local competition, none of the rural ILECs can sustain the percentage of customer attrition experienced by ACS while maintaining service to its remaining customers. These are high cost areas, often with fragile economies. GCI seeks to enter these markets with promises of facilities-based competition -- be it cable or wireless -- but will serve through wholesale UNE loops whenever allowed by regulation and justified by profit margins. We welcome the Commission's statement in *Qwest* that "We conclude that section 251(c) is 'fully implemented' for all incumbent LECs nationwide."<sup>4</sup> When local telecommunications competition is introduced to rural communities, it should be facilities based so that customers can enjoy the advantages resulting from investment rather than experiencing the degradation of service brought about by business schemes aimed at replacing a local monopoly provider with a less-locally focused provider. Forbearance for rural companies should be a readily available option for the future. Forbearance, as requested by ACS, should be granted immediately.

Dated this 9th day of January 2006.

ALASKA TELEPHONE ASSOCIATION

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<sup>4</sup> *Qwest Forbearance Order*, para. 53.

By: \_\_\_\_\_

James Rowe

Executive Director